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Division of Medicaid

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INFORMATIONAL LETTER #97-4

DATE: May 8, 1997
TO: All Idaho Nursing Facilities
FROM: John W. Hathaway, Chief
Bureau of Facility Standards
SUBJECT: NURSING AIDE TRAINING AND
COMPETENCY EVALUATION PROGRAM

Enclosed is information regarding Questions and Answers related to Nurse Aide Training and Competency Evaluation Program which we received from the Seattle Region X Health Care Financing Administration office.

If you have any questions regarding the enclosed material, you may contact this office by calling (208) 334-6626 or by writing us at:

FACILITY STANDARDS BUREAU-DHW
PO BOX 83720
BOISE ID 83720-0036

JOHN W. HATHAWAY, Chief
Bureau of Facility Standards

JWH/nah
Enclosure
cc: Idaho Health Care Association

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Bureau of Facility Standards



DEPARTMENT OF HEALTH & HUMAN SERVICES



Health Care Financing Admin
Region X
Blanchard Plaza Building
Room 800, M/S RX-48
2201 6th Avenue
Seattle, Washington 98121
Voice 206/615-2313
FAX 206/615-2435

March 14, 1997

Certification Improvement
STATE LETTER NO. 562

SUBJECT INDEX CATEGORY: 4

SUBJECT: Questions and Answers Related to Nurse Aide Training and
Competency Evaluation Program (NATCEP and the Competency
Evaluation Program (CEP))

Enclosed is a set of questions and answers from the Division of Skilled Nursing Care in HCFA Central Office to the Illinois Department of Public Health regarding NATCEP and CEP. Most of the questions address issues of who has to pay for training using various scenarios. Please share this with any of your staff or other agencies who are involved with NATCEP and CEP programs.

If you have any questions, please contact your Regional Office state team at 206/615-2313.

Sincerely,

Teresa L. Trimble, Manager
Certification Improvement Cluster

Enclosure

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Bureau of Facility Standards



DEPARTMENT OF HEALTH & HUMAN SERVICES

Health Care Financing
Administration
Health Standards & Quality Bureau
Center for Long Term Care

Memorandum

Date March 6, 1997

From Director
Division of Skilled Nursing Care, OCCIP, BPD

Subject Letter from Vicky Hosey of the Illinois Department of Public Health -- INFORMATION

To Division of Health Standards and Quality
Chicago
ATTN: Sally Jo Wieling

This is in response to your questions regarding the nurse aide training and competency evaluation program (NATCEP) and the competency evaluation program (CEP).

- Question 1:** If a student completes a Nurse Aide Program at a Community College, Proprietary Program, or another facility that does not offer a training program, is the facility which employs this individual within a year of completion of the program required to reimburse the individual for their program?
- Answer:** No. According to the requirements in 42 CFR §483.152(c)(2) If an individual who is not employed or does not have an offer to be employed, as a nurse aide becomes employed by, or receives an offer of employment from, a facility not later than 12 months after completing a nurse aide training and competency evaluation program, the *State* must provide for the reimbursement of costs incurred in completing the program on a pro rata basis during the period in which the individual is employed as a nurse aide.
- Question 2:** If an individual applies for a job with a facility and that facility does not have a program, but has "sister facility" that does, who pays for the program?
- Answer:** If the individual is employed, or has received an offer of employment from a facility on the date which the individual begins a NATCEP, then the hiring facility pays for the program.
- Question 3:** If a student completes a school program for which there was no charge but has to pay for the written competency test, is the facility which employs this individual within a year of completion of the program required to reimburse the individual for the written competency test?

Answer: No. If an individual who is not employed, or does not have an offer to be employed, as a nurse becomes employed by, or receives an offer or employment from, a facility not later than 12 months after completing a nurse aide training and competency evaluation program, the State must provide for the reimbursement of costs incurred in completing the program on a pro rata basis during the period in which the individual is employed as a nurse aide.

Question 4: Some of the facilities say they do not request reimbursement because of the paper work, time, etc. It is our understanding that even if this is the case, they still cannot charge the student for the class. Is this correct?

Answer: Yes.

Question 5: What action should the State agency take upon learning that a Certified facility-based training program is charging their students for their nursing assistant training program or is having the students sign contracts indicating they (the students) will have to pay for the program unless they continue employment at that facility for a certain length of time?

AND

Question 6: What action should the State agency take upon learning that the facility is not only charging the students for the program but is also receiving reimbursement from the disbursing agency of Medicare/Medicaid funds?

Answer: The State may choose to withdraw approval of the program. See 42 CFR 483.151(e)(2).

Question 7: Facilities that do not participate in Medicare/Medicaid *do not* have to abide by these OBRA Regulations...is this correct?

Answer: It depends on the laws of the State in which the facility is located.

Question 8: We are getting requests for individuals to be allowed to test only. In order to do this, they must first be given the manual skills portion of the Competency Exam by an approved evaluator. Because facilities cannot test their own employees, an outside evaluator must be called in to do this. Is the facility that hires the individual also responsible for this charge since it is part of Competency Testing?

Answer: As you may know, an aide who has not received state-approved training *may not* perform any nursing services until the results of the competency exam is received, therefore, because these individuals are employees, the facility that hired them is responsible for these charges.

Question 9: If an individual has already tested and paid for the test, is the facility required to reimburse that individual?

Answer: No. If an individual was not employed, nor had an offer of employment, as a nurse aide becomes employed by, or receives an offer of employment from, a facility not later than 12 months after completing a nurse aide training and competency evaluation program, the State must provide for the reimbursement of costs incurred in completing the program on a pro rata basis during the period in which the individual is employed as a nurse aide.

I hope this information is helpful. If you require further assistance regarding this matter, please contact Gloria Knight at (410) 786-4598.

James K. Kenton

cc:
All ROs

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DEPARTMENT OF HEALTH & HUMAN SERVICES



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April 16, 1997

Certification Improvement
STATE LETTER NO. 564

SUBJECT INDEX CATEGORY: 4

SUBJECT: Clarification of Advanced Directive Requirements

The Health Standards and Quality Bureau has provided further clarification regarding the advance directive requirements described in State Letter No. 545," Do Not Resuscitate (DNR)" Orders, dated May 9, 1996.

Please make this information available to all appropriate staff. If you have any questions, please contact your Regional Office state team.

Sincerely,

Teresa L. Trimble, Manager
Certification Improvement Cluster

Enclosure

Reproduction (original on file)
Bureau of Facility Standards

DATE: April 4, 1997

FROM: Acting Deputy Director for Survey and Certification, HSQB

SUBJECT: Clarification of Advance Directives Requirements

TO: Associate Regional Administrators
DHSQ
Regions I – X

The purpose of this memorandum is to issue a clarification of advance directive requirements. In earlier correspondence, this office indicated,

A Medicare or Medicaid certified long term care facility may not establish and implement a do not resuscitate policy for its residents. The right to formulate an advance directive applies to each individual resident without condition. A facility, therefore, that wishes to establish as a matter of policy that it is a “do not resuscitate facility” would violate the right of residents to formulate an advance directive, specified at sections 1876(c) and 1902(a)(57) and (58) of the Social Security Act and implemented by regulations at 42 CFR 489.102(a). Certified facilities are required to inform residents of their right to formulate an advance directive at their option.

That statement requires further clarification. Section 42 CFR 489.102 specifies that if and to the extent that the State law allows a provider not to implement an advance directive on the basis of conscience, the provider must issue a clear and precise statement to that effect. At a minimum, such a statement of limitation should:

- (a) clarify any differences between institution-wide conscientious objections and those that may be raised by individual physicians;
- (b) identify the state legal authority permitting such objection; and
- (c) describe the range of medical conditions or procedures affected by the conscientious objection.

Thus, while each resident has the right without condition to formulate an advance directive, within certain limited circumstances, only if allowed under State law, a facility or an individual physician may conscientiously object to an advance directive. If State law permits conscientious objection, the facility is required to stay within the limits of State law and to follow the requirements specified at 483.10(b) and 489.102. If State law is silent about this issue, then the facility may not conscientiously object to an advance directive that is permissible in that State.

Robert A. Streimer

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